IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10504 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

JAGABHAI GOVINDBHAI - Respondent(s)

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Appearance :

MR KL PANDY AGP for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 28/06/2005

ORAL JUDGMENT

1.0 The petitioner State has challenged the order dated

13.08.1999 passed by the Presiding Officer of the Labour Court, Surendranagar in Misc. Civil Application No.47 of 1997, whereby the said application was rejected.

2.0 The respondent herein had preferred an application being Recovery Application No.655 of 1992 before the Labour Court, Surendranagar for the recovery of an amount of Rs.1219.00 towards wages. The Labour Court by order dated 06.06.1997 directed the petitioner to pay the said amount to the respondent towards wages.

2.1 It is the case of the petitioner that since the said order was an ex-parte order, the petitioner had preferred an application being M.C.A. No.47 of 1997 for setting aside the ex-parte order and restoring the recovery proceedings. However, the Labour Court, Surendranagar vide order dated 13.08.1999 rejected the said application. Hence, this petition.

3.0 Mr.K L Pandya learned A.G.P has contended that before the Labour Court, the respondent workman had failed to establish the fact that he is entitled to claim the said amount on the basis of the length of service. He has submitted that in the absence of any evidence, the Labour Court ought not to have passed any order for the recovery of the said amount and has committed an error in allowing the application u/s.33(C)(2) of the Act. He has, therefore, submitted that the impugned order of the Labour Court is illegal and deserves to be quashed and set aside.

4.0 Though served none appears for the respondent. I have heard learned counsel for the parties and perused the documents placed on record. Heard learned counsel for the

petitioner and perused the documents placed on record. It is true that the reference was rejected in the year 1999 and the application u/s.33(C)(2) was preferred for the implementation of the interlocutory order and difference of daily wages. In the impugned order of the Labour Court, it has not been mentioned as to on what basis the said amount has been granted. No reasonings have been given by the Labour Court for allowing the said application. Hence, the impugned order of the Labour Court is perverse and deserves to be quashed and set aside.

5.0 For the foregoing reasons, this petition is allowed. The impugned order of the Labour Court, Surendranagar is quashed and set aside. The matter is remanded back to the Labour Court, Surendranagar for adjudication afresh and if appropriate evidence is produced by the respondent, the Labour Court shall re-consider the same, after examining the fact as to whether the cause shall survive or not in view of the dismissal of the reference. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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